

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, California 95113

STAFF REPORT

Hearing Date/Agenda Number
2-28-07

File Number
PDC04-014

Application Type
Planned Development Zoning

Council District
10

Planning Area
Almaden

Assessor's Parcel Number(s)
694-01-027, -030

PROJECT DESCRIPTION

Completed by: Ron Eddow

Location: Southeasterly terminus of Miracle Mountain Drive

Gross Acreage: 8.79

Net Acreage: 8.79

Net Density: 0.11 DU/AC

Existing Zoning: A Agricultural

Existing Use: Vacant

Proposed Zoning: A(PD) Planned
Development

Proposed Use: One single-family detached residence

GENERAL PLAN

Completed by: RE

Land Use/Transportation Diagram Designation
Non-Urban Hillside; Low Density Residential (5 DU/AC)

Project Conformance:
☐ Yes ☐ No
☒ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: RE

North: Single-family detached residential

R-1-8 Single-Family Residence

East: Vacant

Unincorporated County

South: Vacant

Unincorporated County

West: Vacant

OS (PD) Planned Development

ENVIRONMENTAL STATUS

Completed by: RE

☐ Environmental Impact Report found complete
☒ Negative Declaration circulated on February 6, 2007
☐ Negative Declaration adopted on

☐ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: RE

Annexation Title: Coleman No. 34

Date:

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☐ Approval
☐ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date:

Approved by: _____
☐ Action
☐ Recommendation

APPLICANT/OWNER/DEVELOPER

Sanfilippo Trust Estate
Donna R. Sanfilippo
1820 Nomark Court
San Jose, CA 95125

University Construction Company, Inc.
Ron L. Woodrum
16430 Almaden Expressway
San Jose, CA 95120-1507

PUBLIC AGENCY COMMENTS RECEIVED**Completed by: RE**

Department of Public Works

See attached Final Response to Development Application dated 1-04-07; and Memorandum dated 11-7-07 entitled, "Review of Geotechnical Investigation and Slope Stability Analysis Dated June 7, 2006."

Other Departments and Agencies

GENERAL CORRESPONDENCE

Letter and Petition from Mark Zamoyski received April 20, 2006.

E-mails from: Jeffrey Subala, Van Vu, Qian Yi Qian, Jack Hollins, Zbiniew Kusibab, Guiziang Gu, Audrey Henry, Tony Wu, Christine An, Lawrence Lee, Sourita Dey, Linda Watkins, Jack McCall, Ken Halsey, Steven Ledwith, John Hessler.`

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The subject 8.79-acre site takes access from the southern terminus of Miracle Mountain Drive to a private driveway located below a rock outcropping and a knoll where the proposed building site is located. A canal easement benefiting the Santa Clara Valley Water District traverses the northern portion of the site. Single-family residences are located adjacent to the building site to the north. Private open space is located to the east, and west with the Almaden Lake Drive townhomes beyond. The subject site rises in elevation from the knoll to the top of the hillside where the Boulder Ridge Golf Course is located. The hillside forms the visual backdrop for residences located in the vicinity of Santa Teresa Boulevard and Coleman Road. The subject site generally slopes from southwest to northeast. Except for the proposed building site, the subject site is located above the 15 percent slope line.

Project Description***Building Proposal***

The proposed project would construct one single-family detached residence on two split pads. According to the conceptual grading and drainage plan, the upper pad would contain a garage of 600 square feet, and a two-story building element containing 2,400 square feet. The lower pad would contain a one-story element on a footprint of 4,808 square feet. The total building

envelope contains approximately 7,808 square feet.¹ The conceptual elevations contain low-pitched hipped roofs and divided light windows.

Grading and Drainage Plan

According to the conceptual grading and drainage plan, the slope of the proposed building site is approximately 14 percent. The proposed access driveway would be constructed on slopes varying between approximately 25 and 40 percent.² The proposed project would construct a 20-foot wide private driveway approximately 700 feet in length from the terminus of Miracle Mountain Drive to the proposed building site. The proposed driveway would have engineered slopes varying from ten to 20 percent. The proposed driveway has a fire truck turnaround near the top of the bend, and two vehicular pullovers 32 feet in length.

Currently, retaining walls approximately five feet in height would be constructed on both the uphill and downhill sides of the driveway. Engineered 2:1 slopes would be constructed on the uphill side of the driveway between the building site and the fire truck turnaround. Utilities such as water supply, sanitary sewer, and storm drains would be located in the private driveway. Privately owned fire pumps and fire hydrants would provide adequate water pressure for fire suppression. Standby/backup generators are proposed for emergency power. The area surrounding the driveway and building site would be undisturbed.

Proposed Easements

Prior to the issuance of a building permit, the proposed project would record on approximately eight acres a conservation easement for the remainder of the site located uphill of the building site, as well as a pedestrian access easement along the southern edge of the site for public trail purposes. The proposed project would also grant a landscape easement to the adjoining property owners located north of the site so landscaping could be installed and maintained below the Santa Clara Valley Water District (SCVWD) canal.

Community Issues

Based on a community meeting held April 20, 2006, and correspondence received, staff believes the proposed project is a project of significant community interest. Residents adjoining the subject site to the north have expressed concern with trespassing on the vacant subject site resulting in alleged arson, shooting of firearms, and general vagrancy. Some residents believe the proposed project would reduce trespassing because occupants of the proposed residence would provide surveillance of the site.

Others have expressed concern with that the project would result in: (1) potential landslides, (2) visual impacts, (3) a precedence for future development on adjoining properties, (4) the loss of open space and privacy, (5) lower property values, (6) adverse effects on wildlife, (7) a house of a size and scale incompatible with surrounding neighborhood, (8) construction noise and dust impacts, and (9) stormwater impacts on downhill neighborhoods,

¹ The total building envelope of 7,808 square feet equals the sum of (1) a garage of 600 square feet, (2) a second story containing 2,400 square feet, and (3) one story on a footprint of 4,808 square feet.

² Slope is a ratio of the rise/run, where rise is the change in elevation between two points, and the run is the linear distance between two points. For example, a change in elevation of 20 feet over a linear distance of 100 equals a 20 percent slope. Slopes of 30 percent or greater are generally considered very steep by the General Plan.

ANALYSIS

The analysis section below describes the key issues that staff considered as part of the review of this proposal. This consists of issues associated with General Plan conformance and environmental review.

General Plan Conformance

Land Use Designation

The General Plan Land/Use Transportation Diagram identifies that the subject site has a designation of Non-Urban Hillside. The properties adjoining the subject site to the north (downhill side) are designated Low Density Residential (5 DU/AC). According to the slope analysis diagram prepared by the developer's engineer, the proposed building site is located below the 15 percent slope line.

The General Plan states the Land Use/Transportation Diagram is not intended to show the 15 percent slope line precisely on any specific parcel, as this is possible only with site-specific topographic information. Therefore, where site-specific information locates the 15 percent slope line more precisely, the Non-Urban Hillside density should be applied only to the area above the 15 percent slope line. In cases where the 15 percent slope line is located more precisely up slope from the Land Use/Transportation Diagram designation, the adjoining down slope land use designation should be applied to the area below the 15 percent slope line. In this case, the adjacent designation below the site is Low Density Residential (5 DU/AC). The new house is proposed below the 15 percent slope line. The project density of 0.11 DU/AC for this project conforms to the Low Density Residential (5 DU/AC) land use designation.

Non-Urban Hillside

The Non-Urban Hillside land use category is proposed for most hillside areas above the 15 percent slope line. Uses in this category must be limited to those having very little physical impact on the land and requiring no urban facilities and services because of pervasive geologic conditions in the hills such as landslides, soil creep, and earthquake faults, and the extraordinary public costs of hillside development. It is also important to preserve watershed and prime percolation areas. Protecting natural habitats and minimizing the visibility of development are important to enhance the open space character of these hillside areas. Very low intensity uses, such as grazing, tree farming, or very-large-lot residential estates are potential uses under this category. The maximum residential density on property with a Non-Urban Hillside designation is determined by the Slope Density Formula which defines minimum lot sizes between 20 and 160 acres, or a density range of 0.05 to 0.0063 DU/AC.

According to the conceptual grading and drainage plan, portions of the proposed driveway would be constructed on existing slopes varying between approximately 25 and 40 percent. The maximum slope of the proposed driveway would be 20 percent. The proposed project would minimize physical impacts on the land by limiting development to the proposed building site and driveway area. It would not require new urban services or facilities because the project would provide private sewer, water, and storm drain connections to existing public facilities in, and adjacent to, Miracle Mountain Drive. The proposed project would protect natural habitats by recording a conservation easement as described above. It would minimize visibility to enhance

the open space character of the hillside by implementing development standards to limit building height, grading, and driveway visibility. The proposed project would also undergo design review by Planning staff before issuance of a Planned Development Permit, assuming the site is rezoned.

Growth Management Major Strategy

The purpose of the Growth Management Major Strategy is to find the delicate balance between the need to house new population and the need to balance the City's budget, with providing acceptable levels of service. The General Plan directs where and when growth should occur in the future so that adequate service levels are maintained at a cost the City can afford. The location of growth in the city is established by the Greenline/Urban Growth Boundary (G/UGB) which defines the City's ultimate limit to urban expansion. The G/UGB, Urban Reserve, and Urban Service Area (USA) policies of the General Plan are designed to encourage compact, efficient infill development, and to discourage more costly development at the edge of the City. According to the San Jose 2020 General Plan Land Use/Transportation Diagram July 2006³, the subject site is located within the G/UGB and the USA. The adjoining parcels to the east, APN 696-02-001, and to the south, APN 696-01-025, are located outside the G/UGB and USA.

Hillside Development Policies

The Hillside Development Policies articulate General Plan policies regarding hillside development. The policies intend to preserve the hillsides of San José as an important visual and natural resource. Hillside areas are also subject to potential seismic, landslide, fire, and other environmental hazards which can create risks to public safety, expose public facilities and private development to potentially significant damage, and require extraordinary public services costs. For these reasons, General Plan policies typically limit urban levels of development to those areas of the hillsides ringing the valley floor that are located below the 15% slope line and that are proven to be stable and appropriate for development.

In some cases, however, historic development patterns have allowed some urban development above the 15% slope line primarily in the East Foothills of the City in the Berryessa, Alum Rock, and Evergreen Planning Areas. The Urban Hillside land use designation encompasses most of these areas. In addition, there are several hillside areas of the City that are outside or isolated from the main hillsides that ring the valley floor but that are within the USA. These areas, such as the Communications Hill and Silver Creek areas, allow some urban development above to 15% slope line but only where development is located to avoid adverse visual and environmental impacts and to ensure that such development maintains the overall integrity of the main hillsides ringing the valley floor in conformance with the Greenline Major Strategy.

The purpose of the following Hillside Development Policies is to guide the development of hillside areas with slopes of 7% or greater and, to the extent that such development is permitted, to minimize the exposure of people and property to environmental hazards, to ensure that potential damage to the hillsides is minimized, and to guide development in these environmentally sensitive areas. The policy is stated verbatim followed by a discussion of the proposed project's conformance with the policy.

³ The San Jose 2020 General Plan Land Use/Transportation Diagram, Quad 128, may be viewed on the Planning website at http://www.sanjoseca.gov/planning/gp_maps/docs/gp_south.asp.

1. Regardless of the maximum potential residential densities designated by the Land Use/Transportation Diagram for land with a slope of 7% or greater, the City should only allow the development of these lands at densities consistent with the City's objectives of minimizing exposure to environmental hazards, maximizing resource conservation, and achieving compatibility with existing land use patterns.

The proposed project conforms to this policy because the City has issued a Certificate of Geologic Hazards Clearance. Natural resources would be conserved because the project would record a conservation easement on approximately eight acres of the site. The proposed building site achieves compatibility with existing land use patterns in that it would be located adjacent to an existing single-family detached residential neighborhood to the north.

2. Clustering of residential development in hillside areas should be encouraged to minimize the exposure of development to environmental hazards and maximize the preservation of natural resources in the hillsides.

The proposed project conforms to this policy in that the proposed building site is located on a knoll with less than 15 percent slope adjacent to an existing neighborhood to the north.

3. Hillside residential development at urban densities (one dwelling unit per acre or greater) should be located only where adequate services and facilities can be feasibly provided and damage to such services and facilities, due to landslides, fire or other environmental hazards, can be reasonably avoided.

Policy 3 does not apply to the proposed project because it has a density of only 0.11 DU/AC.

4. The City should continue to apply strong architectural and site design controls on all types of hillside development for the protection of the hillsides and to minimize potential adverse visual and environmental impacts.

The proposed project conforms to this policy because it would undergo site and architectural design at the Planned Development Permit stage, assuming it is rezoned. The project proposes a two-story element containing 2,400 square feet on the upper building pad. Staff recommends a development standard limiting height of the proposed residence to 28 feet, and a roof pitch of 4:12. Staff believes the development standards would limit the mass of the residence when viewed from the adjacent neighborhood.

5. Planned Development zoning should be used to govern hillside developments since it allows flexible design techniques such as clustering, and varying lot sizes, and setbacks which can help to minimize damage to the natural environment and maximize resource preservation.

The proposed project conforms to this policy in that a Planned Development Zoning is proposed.

6. In general, grading on hillsides should be minimized. When grading or re-contouring of the terrain is necessary, it should be designed to preserve the natural character of the hills and to minimize the removal of significant vegetation.

The proposed project conforms to this policy because the proposed building location and access road are designed to follow the contours of the existing slope and to minimize the removal of ordinance size trees.

7. Because street construction on slopes often requires a disruptive amount of grading, modified street sections designed for both utility and minimum grading are encouraged.

The proposed project conforms to this policy because the private driveway width of 20 feet is designed to provide the minimum width for fire truck access. The Fire Marshall has reviewed and approved the concept of the proposed driveway design.

8. Construction techniques and housing types adaptable to a variable terrain, such as cluster housing, split pads and stepped foundations, should be utilized on sloped sites. Conventional, single flat-pad construction is discouraged.

The proposed project conforms to this policy because it utilizes a split pad design. The project would undergo architectural and site design to ensure that the grading plan and building design blends with the existing topography of the site.

9. Consideration should be given to the siting of homes for privacy, livability, adequate solar access and wind conditions. Siting should take advantage of scenic views but should not create significant visual impacts affecting public places and other properties.

The proposed project conforms to this policy because it would locate the residence on a knoll below the 15-percent slope line. Visual impacts would be minimized by development standards that limit building height to 28 feet and the roof pitch to 4:12. Also, the project would undergo site and architectural design review at the Planned Development Permit stage, assuming the site is rezoned.

10. The preservation of existing trees, rock outcroppings and other significant features is encouraged.

The proposed project conforms to this policy in that existing rock outcroppings would be preserved north of the proposed building site. Two-ordinance size orchard trees would be removed and replaced with 36-inch box specimen trees at a ratio of 4:1. Four other ordinance size trees would be preserved.

11. Where urban development is permitted above the 15% slope line due to historic patterns of land use and development, no new construction should occur on ridgelines or on slopes exceeding 30% that are part of the major hillside areas or ridges that surround the valley floor.

The proposed project would not locate new construction on ridgelines or on slopes exceeding 30 percent on major hillsides surrounding the valley floor. However, portions of the proposed private driveway would be located on slopes exceeding 30 percent in a way that follows the existing contours of the hillside.

12. The City encourages the preservation of hillside vegetation and, if vegetation

must be removed, it should require appropriate revegetation and planting projects in hillside areas.

The proposed project has been designed to avoid the removal of mature native trees. It would be required to replace trees removed, and install landscaping at the Planned Development Permit stage.

13. Development should only be permitted in hillside areas if potential danger to the health, safety, and welfare of the residents, due to landslides, fire, or other environmental hazards, can be mitigated to an acceptable level.

On December 15, 2006, the City of San Jose Engineering Geologist issued a Certificate of Geologic Hazard Clearance for the proposed project. Also, the Fire Marshall has approved the conceptual design for the private driveway, and private fire hydrants and fire pumps would be constructed to ensure adequate water supply for fire suppression.

14. The City should require soils and geologic review of hillside development proposals to assess such potential hazards as seismic hazards, surface ruptures, liquefaction, landsliding, mudsliding, erosion and sedimentation in order to determine if these hazards are present and can be adequately mitigated. Geotechnical studies for hillside development proposals should determine the actual extent of seismic and other hazards, optimum location for structures, the advisability of special structural requirements, and the feasibility and desirability of a proposed facility in a specified location. Hillside development should incorporate the identified mitigation measures necessary to protect public safety and the natural environment.

The subject site is located within a State of California Seismic Hazard Zone. On December 15, 2006, the City of San Jose Engineering Geologist issued a Certificate of Geologic Hazard Clearance for the proposed project. Prior to issuance of a Public Works Clearance, the developer must submit a geologic/geotechnical report addressing the potential of earthquake-induced landsliding to the City Engineering Geologist for review and approval consistent with the State Guidelines for preparation of engineering geologic and seismic hazard reports.

15. Hillside development within areas of potential geological hazards should be designed to avoid being endangered by, or contributing to, the hazardous conditions on the site or on adjoining properties.

See response to Policy No. 14 above.

16. To avoid any extraordinary maintenance and operating expenses, the City should not locate public improvements, communication facilities, and utilities in hillside areas with identified soils and/or geologic hazards. When the location of public improvements, communication facilities, and utilities in such areas cannot be avoided, effective mitigation measures should be implemented to maximize their potential to remain functional during and after a seismic event.

No public improvements would be located on the subject site. The proposed project would extend private improvements to connect to the existing public improvements in Miracle Mountain Drive and the SCVWD easement.

17. In hillside areas susceptible to erosion, appropriate control measures should be required in conjunction with proposed development.

Prior to the commencement of any clearing, grading or excavation, the applicant must comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Activities Permit to the satisfaction of the Director of Public Works. Also, the project must comply with the City of San Jose Grading Ordinance, including erosion and dust control during site preparation, and the City of San Jose Zoning Ordinance requirements for keeping streets free of dirt and mud during construction as well as implementation of stormwater best management practices (BMPs) to prevent stormwater pollution and sedimentation during and after construction.

18. The Development Review process for projects in hillside areas should consider the potential for any extraordinary expenditures of public resources to provide emergency services in the event of a man-made or natural disaster.

The proposed project conforms to this policy because the private driveway width of 20 feet is designed to provide the minimum width for fire truck access. The Fire Marshall has reviewed and approved the conceptual driveway design.

Environmental Review

On February 6, 2007, the Director of Planning, Building and Code Enforcement circulated for public review a Draft Mitigated Negative Declaration (MND).

Aesthetics

The MND found the project would not significantly degrade the existing visual character of the site in that zoning development standards would be developed for the project to (1) limit building heights to two stories, (2) limit the slope of roof pitches, (3) modulate or step down building mass so that it conforms to the natural topography of the hillside, and (4) place the remainder of the hillside in a permanent conservation easement. Further, prior to issuance of a Planned Development Permit, the project would undergo site and architectural design review by Planning staff to ensure compatibility with the surrounding neighborhood by using appropriate building materials and landscape treatments. The proposed project would not remove existing rock outcroppings. The proposed project would not create a new source of substantial light and glare that would adversely affect day or nighttime views in the area because it would conform to the City's Outdoor Lighting Policy that requires use of shielded lighting fixtures.

Air Quality

Temporary air quality impacts such as fugitive dust may result from grading, soil excavation, and other construction activities on the subject site. The proposed project would implement mitigation measures such as watering graded areas, covering loose soil, and sweeping paved areas to reduce the temporary air quality impacts to a less than significant level.

Biological Resources

Live Oak Associates, Inc. prepared a Biotic Evaluation for Miracle Mountain, the proposed project, on July 26, 2004. Since the report was prepared, the proposed building site was changed from the middle of the site on the hillside, to the northwest corner of the site on the knoll above

the rock outcropping. Figure 2 of the report was revised to show the building site as proposed. The former proposed building site and access road affected Mixed Woodland habitat. The current proposed building site and access road affects only Old Orchard with Non-native grassland under-story as shown in Figure 2 of the report.

The Biotic Evaluation report describes three types of habitats on the site. Figure 4 of the report shows the location of special status species on the site based on a review of the California Natural Diversity Data Base (CNDDB). The concrete lined channel or canal along the northern edge of the site directs drainage water from the hillside to Almaden Lake that flows into Guadalupe Creek. The canal has little habitat value except for seasonal drinking water for wildlife. The report states it is unlikely the United States Corps of Engineers or the California Department of Fish and Game would claim jurisdiction over the canal.

Loss of Habitat for Special Status Plants

Of the 21 special status plant species that could occur on the site, 11 species could be eliminated because the site does not contain serpentine or alkaline soils to support them, and four species could be eliminated because the site does not contain suitable habitat or terrain to support them. The site contains suitable habitat for six remaining species including bent-flowered fiddleneck, big-scale balsamroot, Hall's bush mallow, Loma Prieta hoita, Santa Cruz Manzanita, and fragrant fritillary. None of these species are federally or state listed as threatened or endangered. All six species are listed on the California Native Plant Society 1B list as "Plants rare, threatened, or endangered in California or elsewhere. None of the six species were observed during site surveys by the biologists in June 2004. Therefore, no mitigation is required.

Loss of Habitat for Special Status Animals

The proposed project will affect only orchard and non-native grassland habitat. The project is not expected to affect native wildlife because non-native grassland habitat is relatively common in the area, and it would not affect areas of the entire 8.79-acre site containing Mixed Woodland or California Sagebrush Chaparral.

Interference with the Movement of Native Wildlife

The proposed project would not interfere with the movement of native wildlife because approximately 90 percent of the site on the hillside would remain undisturbed. In addition, the construction site would only result in a temporary disruption of local wildlife during daylight hours.

Disturbance to Active Raptor Nests from Construction Activities

No nests were observed on the site in trees during June 2004 surveys for nesting raptors. However, large trees such as coast live oak, valley oak, blue oak, and California buckeye provide nesting habitat for raptors. The project site may provide habitat for birds such as American kestrels that were observed flying above the site in June 2004. Raptors and their nests are protected under the Migratory Bird Treaty Act of 1918 and California Department of Fish and Game (CDFG) Code Sections 3503 and 3503.5. If raptors were nesting on the site in the vicinity of proposed construction, such construction activities could result in abandonment of active nests or direct mortality to these birds in violation of federal and state laws. Impacts to nesting raptors would be avoided with the following mitigation measure:

If possible, construction should be scheduled between September 1 and January 31 to avoid the raptor-nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report to the City's Environmental Principal Planner indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning prior to the issuance of any grading or building permit.

Disturbance to Ordinance-Size Trees and Heritage Trees

According to the Land Use Plan, the proposed building site contains six ordinance size trees larger than 56 inches in circumference in the area affected by the project, ranging from 63 inches to 188 inches in circumference. The proposed project would remove one Almond tree 30 inches in diameter or 94 inches in circumference, and one English Walnut tree 20 inches in diameter or 63 inches in circumference. The four other ordinance size trees would be preserved.

The City of San José has established regulations for removal of landscape trees at least 56 inches in circumference measured two feet above grade. The proposed project will obtain a Planned Development Permit for the removal of such ordinance-sized trees and provide for the replacement of removed trees in conformance with the City of San José Tree Removal Controls Ordinance.

Geology and Soils

The subject site is located within a State of California Seismic Hazard Zone. On December 15, 2006, the City of San Jose Engineering Geologist issued a Certificate of Geologic Hazard Clearance for the proposed project. Prior to issuance of a Public Works Clearance, the developer must submit a geologic/geotechnical report addressing the potential of earthquake-induced landsliding to the City Engineering Geologist for review and approval consistent with the State Guidelines for preparation of engineering geologic and seismic hazard reports.

Hydrology and Water Quality

The initial study concluded the project could “otherwise substantially degrade water quality,” and therefore result in a less than significant impact with mitigation incorporated. Prior to the commencement of any clearing, grading or excavation, the applicant must comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Activities Permit to the satisfaction of the Director of Public Works. Also, the project must comply with the City of San Jose Grading Ordinance, including erosion and dust control during site preparation, and the City of San Jose Zoning Ordinance requirements for keeping streets free of dirt and mud during construction as well as implementation of stormwater best

management practices (BMPs) to prevent stormwater pollution and sedimentation during construction.

Noise

The initial study concluded the project would result in a “substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project,” and therefore result in a less than significant impact with mitigation incorporated. Mitigation measures include limiting construction to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. The Director may approve weekend construction on Saturday from 9:00 a.m. to 5:00 p.m. for interior work only. Other mitigation measures include use of mufflers on construction equipment and locating staging areas at least 200 feet from residential uses.

PUBLIC OUTREACH

As described above, staff and the District 10 Council office held a community meeting on April 20, 2006. Notices for the community meeting were mailed to owners and occupants within 1,000 feet of the subject site. Correspondence and e-mails received by staff are attached.

Notices of the Intent to Adopt an MND, Planning Commission, and City Council public hearings were mailed to owners and occupants within 1,000 feet of the subject site, and e-mailed to individuals that attended the community meeting and submitted the attached correspondence. The Draft MND, initial study, and staff report have been available on the Planning website.

CONCLUSION

Community members have expressed concern with that the project would result in: (1) potential landslides, (2) visual impacts, (3) a precedence for future development on adjoining properties, (4) the loss of open space and privacy, (5) lower property values, (6) adverse effects on wildlife, (7) a house of a size and scale incompatible with surrounding neighborhood, (8) construction noise and dust impacts, and (9) stormwater impacts on downhill neighborhoods.

Environmental impacts such as potential landslides, visual impacts, adverse effects on wildlife, construction noise and dust impacts, and stormwater impacts have been addressed by the initial study and Draft MND as discussed in the Environmental Review section above. Mitigation measures to reduce impacts to a less than significant level would be implemented as conditions of the Planned Development Permit.

The proposed residence would be visible from the surrounding neighborhood. However, staff believes the proposed project would not significantly degrade the existing visual character of the site if the recommended development standards are adopted and implemented to (1) limit building heights to 28 feet/two stories, (2) limit roof pitches to 4:12, (3) modulate or step down building mass so that it conforms to the natural topography of the hillside, and (4) place the remainder of the hillside totaling approximately eight acres in a permanent conservation easement. Development standards are also recommended to address development details that would be visible such as the driveway, decks, fences, pony walls, and the location of yards and accessory structures.

Staff believes the proposed project would not establish a precedent for future residential subdivision of adjacent properties in the Santa Teresa foothills because (1) access is not available to those properties, and (2) a General Plan Amendment or Update would be required to expand the G/UGB and USA to include those properties. Staff believes the proposed project, including environmental mitigation in the MND, and the recommended development standards, conforms to the General Plan Hillside Development Policies discussed above, and is therefore and appropriate land use for the subject site.

RECOMMENDATION

Planning staff recommends the Planning Commission forward a recommendation to the City Council to approve the proposed Planned Development Rezoning, subject to the recommended development standards, for the following reasons:

1. The proposed project conforms to the General Plan Land Use/Transportation Diagram designation of Low Density Residential (5 DU/AC) and Non-Urban Hillside.
2. The proposed project conforms to the General Plan Hillside Development Policies.
3. The proposed project would implement the mitigation measures in the MND.
4. The proposed project would record a conservation easement and pedestrian access easement on approximately eight acres of the subject site.

Attachments

cc: Ron Woodrum, University Construction Company, Inc., 16430 Almaden Expressway,
San Jose, CA 95120.